


**Spencer Investigations
1325 Airmotive Way, Suite 206
Reno, NV 89502
Office#775-786.7766 Fax#775.786.7762**

Memo

Date: December 8, 2011
To: Scott F. Freeman, Attorney
From: Jeffrey T. Partyka, Investigator 
Subject: Judy Mikovits Matter/Evidence Viewing

Introduction

On the afternoon of Dec. 1, 2011, you requested that I attend an evidence viewing with you scheduled for Friday Dec. 2, 2011 at 1:00pm at the University Nevada Reno Police Department. I subsequently accompanied you for the above evidence viewing on Dec. 2, 2011 which was conducted in the UNR Police Dept. conference room commencing at about 1:10pm and the following are observations made during it:

Evidence Viewing Attendance Log

Atty. Scott Freeman – counsel for Judy Mikovits
Investigator Jeff Partyka-Spencer Investigations (Atty. Freeman's Investigator)
Det. Jaime McGuire – UNR Police Dept.
Dan Greco – Washoe County District Atty's Office/Chief Deputy
Richard Kishpaugh – Washoe County District Atty's Office/Chief Investigator
Annette Whittemore – Whittemore Peterson Institute CEO
Vincent Lombardi - Whittemore Peterson Institute Research Director
Max Pfof - Whittemore Peterson Institute Research Asst.
Katherine Hager - Whittemore Peterson Institute Research Assoc.

Evidence Viewing Details

At about 1:11pm, the evidence box containing various notebooks/binders/folders was unsealed by Det. McGuire. Both you and Dan Greco agreed that this was not a "fingerprint case" so the utilization of gloves was not necessary during the examination of evidentiary items contained inside the evidence box.

I examined the following items during the course of the evidence viewing:

Spencer Investigations
1325 Airmotive Way, Suite 206
Reno, NV 89502
Office#775-786.7766 Fax#775.786.7762

Memo

1. Black Laboratory Notebook with blue label "Meredith Michel" affixed to front cover. There was an entry dated 10/6/10. Whittemore Peterson Institute for Neuro-Immune Disease Consulting Agreement document signed by Meredith Michel was located inserted inside this notebook.
2. Black binder with white page insert in cover which read, "Confidential...To: Judy...From: Kelli". Binder also contained letter dated 7/24/11 addressed to Ms. Jones signed by Bonnie Bennett.
3. Black Laboratory Notebook with blue label which read, "Kathryn Hagen" affixed to front cover. Date ranges of notes contained in this book were from 12/11/89 to 8/6/10.
4. Black Laboratory Notebook with blue label which read, "Cassie Puccinell Notebook 4" affixed to front cover. Date ranges of notes contained in this book were from 4/25/11 - 4/29/11.
5. Black Laboratory Notebook with blue label which read, "Kathryn Hagen Notebook #2" affixed to front cover. Date ranges of notes contained in this book were from 4/13/09 - 12/4/09.
6. Brown Lab Notebook with the name "Cassie" handwritten on upper right corner on front cover and "Cassie Pucinelli Notebook #1" was handwritten above "Cassie." Date ranges of notes contained in this book were from 2/23/10 - 9/22/10.
7. Brown Lab Notebook with "Kathryn Hagen WPI" handwritten on front cover. Date ranges of notes contained in this book were from 9/23/08 - 4/10/09.
8. Green hardcover Lab Notebook with inside page dated "6/1/09 assigned to Judy." Date ranges of notes contained in this book were from 6/1/09 - 1/17/11.
9. Black hardcover Lab Notebook with "Whittemore Peterson Institute" engraved on front cover. Date ranges of notes contained in this book were from 1/25/11 - 9/26/11.

Spencer Investigations
1325 Airmotive Way, Suite 206
Reno, NV 89502
Office#775-786.7766 Fax#775.786.7762

Memo

10. Black hardcover Lab Notebook with "Whittemore Peterson Institute" engraved on front cover and pink label which read, "Cassie Puccinelli Notebook 3" also affixed to front cover. Date ranges of notes contained in this book were from 1/24/11 – 4/21/11.
11. Black Lab Notebook with blue label which read, "Cassie Puccinelli Notebook 2" affixed to the front cover. Inside cover read, "Issued to: Cassandra Puccinelli on 9/22/10 Dept. WPI". Date ranges of notes contained in this book were from 9/22/10 – 1/22/10 (date of 1/22/10 is likely an error and should have read 1/22/11)
12. Lab Notebook 2 engraved on front cover with blue label affixed to left top corner which read, "Max Pfof Notebook 2." Date ranges of notes contained in this book were from 7/20/09 – 6/30/10.
13. Brown Notebook with front cover label reading, "Dept: Simaron, Name: David Pomeranz, Judy Mikovits, Address: Red Labs/Incline Village." Date ranges of notes contained in this book were from 9/26/06 – 6/25/07.
14. White Lab Notebook with the following handwritten on the front cover label, "Name: David L. Tamang; Address: david@tamang.org This notebook contained printouts of misc. articles which were stapled to the notebook pages. Date ranges of notes contained in this book were 7/30/08 – 6/18/08.
15. Two (2) manila colored legal size folders with one inserted into the other each containing pages of unknown code printouts. Both folders were not labeled.

Observations

The staff of WPI present during the evidence viewing examined items 1-15 listed above and I overheard them make the following comments relevant to some of those items as follows:

Max Pfof said "this is strange" when examining items #1 and #2 and then said "she (referring to Judy Mikovits) has another green one and Annette Whittemore said "she (referring to Judy Mikovits) has another brown one" after she also examined items #1 and #2.

Max Pfof believed an older dated brown notebook from time frame 2006-2009 and more recent green notebook following date 9/26/11 are missing.

**Spencer Investigations
1325 Airmotive Way, Suite 206
Reno, NV 89502
Office#775-786.7766 Fax#775.786.7762**

Memo

Max Pfof believed these were the books he took that were present during this evidence viewing.

Annette Whittemore stated that "at the very minimum, two notebooks are missing." Annette also believed that additional notebooks are missing from "persons other than Judy" from time frames 2006, 2007, and 2008.

Annette Whittemore mentioned the date "September 2011" when examining item #1.

Kathryn Hagen commented, "All my notebooks are here and look fine."

Vincent Lombardi stated, "No one has a perfect memory" but I was not certain as to what he was referring to when he made this statement.

Other

DDA Dan Greco instructed Det. McGuire when marking evidence for report purposes to use the following language, "it appears that this notebook will cover a specific time frame."

END



Judy Mikovits <jamikovits@gmail.com>

Re: Revised draft Variant application due April 6 (Whitt Variant/NPA ; SNR 40000377-0022)

1 message

Judy Mikovits [redacted]
To: Judy Mikovits [redacted]

Tue, Jan 10, 2012 at 1:26 PM

Do you mean at NCI?
Yes it was submitted..send it to the OIG..
When inventors hip was discussed I wrote that I should be the only inventor
VCL did NOT do one thing either at the WPI or the diagnostic company
As you wrote, VCL's next original idea will be his first
Let them have it..it is he notebook in which my handwritten comments besides KSJ numbers of the three variants ..that was taken from my office after I was fired and before Max got there
ALL about the money

Sent from my iPad

On Jan 10, 2012, at 7:14 AM, Judy Mikovits <jamikovits@gmail.com> wrote:

Dear Judy: here is the variant patent. It appears that the only you and Vinnie are inventors even though 90% of the work was done WPT. If this was submitted we will get for Fraud. frank

NCI

----- Forwarded message -----

From: Harney, Dennis J. <[redacted]>
Date: Tue, Apr 5, 2011 at 8:57 PM
Subject: Revised draft Variant application due April 6 (Whitt Variant/NPA ; SNR 40000377-0022)
To: Vinnie [redacted], Judy Mikovits [redacted]
Cc: Carli West Kinne [redacted], "Nemeth, Drenda K." <[redacted]>
[redacted], "Bock, Joel N." <[redacted]>, "Filatov, Diane" <[redacted]>, Annette Whittermore <[redacted]>
[redacted], Harvey Whittermore [redacted], "Matthews, Stafford" <[redacted]>

Vinnie and Judy,

Attached is a revised draft of the Variant application we propose filing tomorrow as a US and PCT application. All feedback you provided earlier today has been entered into the document. Further subject matter was added to the specification and claims. For your convenience, also attached is a redline comparison showing all changes made compared to the last version you reviewed.

We will file after about 3PM CT tomorrow April 6, 2011. Please provide any additional feedback in advance of this time.

Thank you for all your assistance in preparation of this Application.

Regards,

Dennis

Dennis J. Harney, Ph. D.
SNR Denton US LLP
D +1 314 259 5818
F +1 314 259 5959
dennis.harney@snrdenton.com
Assistant: Drenda K. Nemeth [+1 314 259 5852]
www.snrdenton.com

SNR Denton is the collective trade name for an international legal practice. This email may be confidential and protected by legal privilege. If you are not the intended recipient, disclosure, copying, distribution and use are prohibited; please notify us immediately and delete this copy from your system. Please see snrdenton.com for Legal Notices, including IRS Circular 230 Notice.

From: Harney, Dennis J.
Sent: Tuesday, April 05, 2011 2:06 AM
To: 'Vinnie'; Judy Mikovits
Cc: 'Carl West Kinne'; Nemeth, Drenda K.
Subject: Draft Variant application Whitt Variant/NPA ; SNR 40000377-0022)

<< File: NPA Variants, WPI 40000377-0022_v15.DOC >>
Attached is a draft of the Variant application. As a reminder, this application must be filed as a US non-provisional application and PCT application on April 6, 2011.

We look forward to your feedback.

Regards,

Dennis

Judy A Mikovits, PhD
Research Director
Whittemore Peterson Institute

University of Nevada, Reno MS 0552

1664 N Virginia St

Reno NV 89557-0552

phone: 775-682-8264
fax 775-996-7159

<Redline.doc>

<NPA Variants, WPI 40000377-0022_v15.DOC>



Frank Ruscetti <fwruscetti@gmail.com>

Fwd: XMRV/BWG Attorney-Client privileged communication

1 message

Judy Mikovits [redacted]
To: Tammy Riggs [redacted]

Tue, Feb 7, 2012 at 6:24 PM

Tammy

Please read from the bottom up and note that the numbers of the samples given to Vinnie WERE NOT different than those reported by the WPI in the Science paper published September 22nd 2011. This is a BOLD faced harvey Whittemore Lie and MY notebook (the black one proves it as does emails and gmails to Frank and the entire data set that Dr Lombardi tried to pass off as validated results. You can see how this series of emails is consistent with what Frank wrote and what I told you last week and what is in my story about the blood working group BWG. Mike Busch validated this in emails and texts to me and Frank while I was in Ireland. This is the fraud they are trying to perpetrate by saying I had other notebooks

Max's new email is [redacted] and Andrew Mason his new mentor/boss is [redacted]

andy mason phone# [780-492-8172](tel:780-492-8172)

kathy shriver phone # [425-498-1734](tel:425-498-1734)

Begin forwarded message:

From: Judy Mikovits [redacted]
Subject: **Fwd: XMRV/BWG Attorney-Client privileged communication**
Date: January 13, 2012 4:32:34 PM PST
To: Dr Mikovits Judy [redacted]

Sent from my iPad

Begin forwarded message:

From: Harvey Whittemore [redacted]
Date: August 31, 2011 8:07:06 PM PDT
To: Judy Mikovits [redacted]
Subject: **Re: XMRV/BWG Attorney-Client privileged communication**

Got your reply. Thanks. See you at 8:30. H

Harvey Whittemore Sent from my iPhone

On Aug 31, 2011, at 5:30 PM, Judy Mikovits [redacted] wrote:

Dear Harvey,

distinguished between patients and controls. If I improperly assumed that these were different samples from Frank, I apologize. I thought that is what you had said in an earlier meeting. Your behavior in storming out of the room is not helping the Institute, yourself, or the patients.

I know that you think that Vinnie has ruined everything.

The WPI will only succeed if it can validate your collective body of work and prove that these patients are infected with a human gamma retrovirus; it would be nice if it was AN XMRV! I need a scientific response to Bio-rad in 14 days. I need your help to fashion an appropriate statement prior to the BWG release.

Regards

H

Sent from my iPad

I don't think that Vinnie has ruined everything. I think that he is in way over his head and that he is not working with us but against us. His ego has totally occluded his judgement and now he is compounding honest mistakes of judgement with the failure to get over his ego and admit he needs expertise from me! Last I looked there was not a retrovirologist at UNR..Greg Pari is not the research director nor is Tom Kozel, Ken Hunter or anyone else. Frank, Sandy and I are the retrovirologists with a combined century of experience. Vinnie is less than 5 years after receiving his PhD in protein chemistry not in Immunology or retrovirology. It is my job to direct the expertise in this small organization to be the most efficient and maximize each and every individual talent. Because of Vinnie's ego and his need to have "his" serology paper without the collective efforts of the team. I have not seen one sentence paper which I was to have a first draft of the last week in February or the first week in March..that tells me (and Frank who could not get Vinnie to show him the data on June 24th) that something is wrong..so instead of letting us help him fix it he is lying by omission and created the problem that ended in the BWG failure..because he simply could not say..his assay was not reliable or reproducible exactly the problem in December). My management style is not one of micromanagement, I have given him every opportunity and technical staff to help him and my door is always open and not once has he completed a project. Ask anyone

We know there are gamma retroviruses in humans in CFS and in the other diseases listed in our patents. Andy Mason is very close to answers and in as much as told me that on the phone this morning that he has integration sites and data that will show us all to be right. Chronix has the same story with Hemispherx samples

Just before the meeting I received an email that Science will accept the paper from the BWG but it must be turned in by the 6th.... My reasons both personal and professional for storming out don't all have to do with the events of the meeting, not an excuse but a reality. Frank and I have the entire burden of the entire patient community, including Andrea and the WPI..with all of that I simply don't have the patience to deal with Vinnie's ego. We were always about the team but all one ever hears from Vinnie is "my paper"

One thing that I cannot do is work with someone that I don't trust to tell me the truth and show me all of the data..I can no longer trust Vinnie. Max told me the truth in December. I knew he likely contaminated the samples and I reported the data anyway..and that is why I did not report the culture data or serology data in which I had no confidence this time so that it would not hurt the WPI clinical lab or its investigators again

See you tomorrow at 8:30
jamn

On Wed, Aug 31, 2011 at 3:35 PM, Harvey Whittemore [REDACTED] wrote:

Dear Judy:

Please provide me a written answer to the following question:
Why were Vinnie's sample numbers different from the numbers that were provided to me by Michael Busch for WPI results. I would also like to know whether Vinnie's results correctly

Progress Report

Title: New Strategies to Decipher the Pathophysiology of CFS

Grant Number: 5R01AI78234-3

PD/PI: Mikovits, Judy A

Period Covered by Report: 09/01/2011 through 08/31/2012

A. Specific Aims

There have been no changes in the specific aims for this proposal. We completed Aim 1.1 prior to the award notice and funding with the detection and isolation of the human retrovirus XMRV in >67% of 101 samples from the American Cohort. (Lombardi et al. Science, 2009).

B. Studies and Results

Last year we had collected and processed approximately 250 samples from the European cohort and completed the detection and confirmation of XMRV infection in approximately 60 of those using the techniques of Lombardi et al. We collected no additional samples from the European cohort during this period. In this study period we have collected and processed an additional 60 samples from the American cohort of CFS patients for XMRV detection. (Aim 1) Because of the controversy surrounding the detection of XMRV strains using nucleic acid technologies, we have focused our detection assay efforts on the development and validation of a western blot serological assay demonstrating reactivity in patient plasma and sera to multiple XMRV antigens including env (p70), gag p30, TM (p15E) matrix p15, and MA p12. We confirmed that these reactivities were not cross reactivity with cellular proteins by 2Dgel/Ms/MS sequencing. (Lombardi et al. manuscript in preparation)

Sequence analysis (Aim 1.1) of XMRV infected CFS performed by our collaborators Michael Dean and Frank Ruscetti at the NCI Frederick have revealed two subtype X and P of MLV related viruses in subsets of CFS patients from the American cohort, Subtypes X and P. Our observation was supported by publication of Drs Lo and Alter to suggest that there might be different strains of MLV-related viruses in CFS patients (Lo et al PNAS August 2010). We also did extensive characterization of cells lines created from CFS patient PBMCs completing Aim 1.3 (manuscript in preparation Mikovits et al.) In the next study period we will continue to clone and sequence XMRV and additional human gamma retroviruses from cell lines created from CFS patient PBMC (Aim 1.4)

In this study period, we published the inflammatory signature of XMRV infected CFS patients using Luminex multiplex profiling. VINCENT C. LOMBARDI, KATHRYN S. HAGEN, KENNETH W. HUNTER, JOHN W. DIAMOND, JULIE SMITH-GAGEN, WEI YANG and JUDY A. MIKOVITS. **Xenotropic Murine Leukemia Virus-related Virus-associated Chronic Fatigue Syndrome Reveals a Distinct Inflammatory Signature.** *in vivo* 25: 307-314 (2011) (Aim 2.2) and continued these studies by completing Luminex multiplex profiling, extending the proteomic markers from 30-48 using 60 samples drawn from the US cohort and >150 samples from the European cohort.

During last years' study period we reported preliminary data suggesting that HLA and KIR variation might contribute to risk of disease progression or severity in XMRV infected CFS patients (Aim 2.3). We made no further progress on this aim due to focus of our laboratory and publication of Drs Lo and Alter to suggest that there might be different strains of MLV-related viruses in CFS patients (Lo et al PNAS August 2010). Therefore, we focused of aim 1.2) to generate sequence data from multiple clinical samples from both the US and European cohorts and to use these sequence data to investigate the role of variant viral species in the pathogenesis of CFS. Once we identify subgroups harboring variant XMRVs/MRVs we will extend our studies of the inflammatory cytokine signature to determine if different signatures distinguish patients infected with different variants of XMRV Further analyses are ongoing using the additional 165 samples processed in 2009-2010 in the US cohort and the 250 samples collected and processed from the UK cohort in 2010.

We extended our knowledge of defects in the type I interferon signaling pathway by investigating the production of type I interferon's (IFN) by plasmacytoid dendritic cells (PDCs), the major type I IFN producing cell in humans. Interestingly, when PDCs are infected in vitro with XMRV produced by either XMRV made

from the infectious molecular clone VP62 or from clinical isolates produced by our immortalized cell lines (Aim 1.4), No type I interferon is produced> This is in contrast to infection either in vitro or ex-vivo with HIV-1 but similar to infections with HTLV-1, where a block in type I interferon production by PDCs has been suggested to be an immune evasion strategy of HTLV (Jones, KS et al Nature Medicine 2008). In the next study period we will investigate the molecular basis of this signaling defect in collaboration with Dr Frank Ruscetti.

C. Significance

The detection and identification of a new human retrovirus, Xenotropic MLV-related virus (XMRV) and variants of XMRV in the well characterized American cohort and correlation of XMRV with an inflammatory cytokine signature, KIR/HLA genotypes of disease severity or progression and type I defects in the IFN pathway are highly significant findings and progress toward the overall goal of this study that is to determine the mechanisms of pathogenesis of CFS and discover and develop new biomarkers that can be used for better diagnosis and development of new treatment strategies for CFS.

D. Plans

Our plans for next year are to focus on the UK cohort and identify XMRV and its variants; the associated cytokine signature, the KIR/HLA genotype and the type I interferon defects. We will also begin correlating the viral, immune and mirna markers identified in these patients with clinical phenotype and disease severity.

E. Key Personnel Changes

Now in the 3rd year of the 5-year study period we have consented collected and processed samples from more than 75% of the participants for this study. The focus in the next study period will be to complete all of the virus detection and sequencing and experimentation to elucidate genetic factors of susceptibility and the dysregulation of the immune system (Aim 2). Therefore, we decreased the level of effort of Dr. Mikovits from 40% to 20% in order that we can use these resources to support an additional research associate at 50% effort. This research associate would conduct experimentation in Aims 1 and 2 prepare nucleic acids for shipment to collaborators Drs. Dean and Carrington (aim 2.3) Dr. Lombardi's effort was decreased from 40% effort to 20% effort and his focus will be in the direction of experimentation on aim 2 studies of dysregulation of the immune system and the statistical analysis of the association of XMRV and variant MRVs with inflammatory signatures. We have also eliminated the medical director as Dr. Peterson retired and there is no longer need for establishing clinical criteria for this subgroup as it is now well established and the basis study design for patient and control recruitment in the ongoing multi-center collection of patient samples under the direction of Dr. Ian Lipkin.